

# EXHIBIT C

1 IN THE UNITED STATES DISTRICT COURT

2 IN AND FOR THE DISTRICT OF DELAWARE

3 THOMAS A. EAMES, on behalf of : CIVIL ACTION  
4 themselves and all others :  
5 similarly situated; ROBERTA L. :  
6 EAMES, on behalf of themselves :  
7 and all others similarly :  
8 situated; TAMMY EAMES, on behalf: :  
9 of themselves and all others :  
10 similarly situated; :  
11 Plaintiffs, :  
12 :  
13 v :  
14 :  
15 NATIONWIDE MUTUAL INSURANCE :  
16 COMPANY, :  
17 :  
18 Defendant. : NO. 04-1324 (KAJ)

19 Wilmington, Delaware  
20 Tuesday, March 1, 2005 at 2:45 p.m.  
21 TELEPHONE CONFERENCE

22 BEFORE: HONORABLE KENT A. JORDAN, U.S.D.C.J.

23 APPEARANCES:

24 MURPHY, SPADARO & LANDON  
25 BY: JOHN S. SPADARO, ESQ.

26 Counsel for Plaintiffs

27 SWARTZ CAMPBELL, LLC  
28 BY: CURTIS P. CHEYNEY, ESQ.  
29 (Philadelphia, Pennsylvania)

30 Counsel for Defendant

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32 Brian P. Gaffigan  
33 Registered Merit Reporter

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4 P R O C E E D I N G S

5 (REPORTER'S NOTE: The following telephone  
6 conference was held in chambers beginning at 2:45 p.m.)

7 THE COURT: This is Judge Jordan. Who do I have  
8 on the line?

9 MR. CHEYNEY: Good afternoon. Curt Cheyney for  
10 the defendant.

11 MR. SPADARO: Good afternoon, Your Honor. John  
12 Spadaro for the Eames plaintiffs.

13 THE COURT: All right. We had a little bit of a  
14 challenge getting together today. Thanks for everybody  
15 hanging in until we actually got on the call at the same  
16 time.

17 I have the form of scheduling order in front of  
18 me that was sent over under cover of Mr. Spadaro's February  
19 25th letter. Let's roll through that together.

20 The very first paragraph, I understand there is  
21 some dispute about with what the plaintiffs wanting the Rule  
22 26(a)(1) five-day time limit to apply and the defendant  
23 asking to have approximately, what, two months to make  
24 initial disclosures.

25 MR. CHEYNEY: No, Your Honor. If I could speak

1 Nationwide insurance agents around the state with policy  
2 documents and declarations pages which are part of the  
3 contract that represents to policyholders that they have  
4 "full" limits of liability for PIP coverage. The policy  
5 documents that are customarily provided by Nationwide itself  
6 as opposed to the ones that their agents in Delaware are  
7 providing, they also beg the question to say things like "see  
8 policy." So essentially the Nationwide paper points you to  
9 the agent's paper.

10                   Under Rule 34, we think that the Court would find  
11 if we were to litigate the issue that the documents in the  
12 possession of the insurance agents who are Nationwide's  
13 agents are Nationwide's documents for the asking. They are  
14 in Nationwide's possession, custody or control. And what  
15 they should have been doing these past eight months until  
16 they decided they would remove the case to District Court  
17 is rounding them up for us so we could have from Nationwide  
18 and not from 10 or 20 or 30 or 50 third-party subpoenas in  
19 Delaware but from Nationwide a production of the declarations  
20 pages that the agents, their agents are giving to consumers  
21 in Delaware where the PIP limits are supposed to be  
22 described.

23                   THE COURT: Okay.

24                   MR. CHEYNEY: Your Honor, I can file our initial  
25 disclosures in five days from today. But I just want to say

1 one thing. Our Agents, capital A Agents are independent  
2 contractors with separate contracts. They are not our  
3 agents.

4 THE COURT: Yes. I'm not commenting, making any  
5 ruling, by implication or otherwise, about anything that was  
6 just laid out by plaintiffs' counsel. I'm just saying this:  
7 Do your initial disclosures within five days.

8 MR. CHEYNEY: I'll do it, Your Honor.

9 MR. SPADARO: Thank you, Your Honor.

10 THE COURT: That's paragraph one.

11 Paragraph two, the March 21, 2005 deadline that  
12 you folks agreed on in paragraph two is okay with me.

13 Paragraph three, we've got another dispute. The  
14 way it's framed in the copy that was sent to me is each side  
15 is limited to a total of seven hours of taking testimony of  
16 deposition upon oral examination.

17 MR. SPADARO: Your Honor, John Spadaro again.

18 This is the first time I had a case before Your  
19 Honor and you know I fully admit I'm in the Superior Court  
20 a lot more than the District Court. I understood in the  
21 District Court in some cases, a limitation on the number of  
22 hours for deposition was being required. I had not under-  
23 stood I could have gotten this wrong. I guess both sides  
24 might have gotten it wrong if it is wrong and I checked with  
25 other lawyers in the office and they thought I understood it